United Nations S/2007/210

Security Council

Distr.: General
16 April 2007

Original: English

Letter dated 16 April 2007 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to write to transmit to you the proposal of the Frente Polisario for a mutually acceptable political solution that provides for the self-determination of the people of Western Sahara (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Dumisani S. **Kumalo**
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of the Republic of South Africa

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Annex to the letter dated 16 April 2007 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

[Original: English and French]

Proposal of the Frente Polisario for a mutually acceptable political solution that provides for the self-determination of the people of Western Sahara

I. The Conflict of Western Sahara is a decolonisation question:

1. Included since 1965 on the list of the Non-Self-Governing territories of the UN Decolonisation Committee, Western Sahara is a territory of which the decolonisation process has been interrupted by the Moroccan invasion and occupation of 1975 and which is based on the implementation of the General Assembly resolution 1514 (XV) regarding the Declaration on the Granting of Independence to Colonial Countries and Peoples.

2. The UN General Assembly and the Security Council have identified this conflict as a decolonisation conflict between the Kingdom of Morocco and the Frente POLISARIO whose settlement passes by the exercise by the Saharawi people of their right to self-determination.

3. Likewise, the International Court of Justice, at the request of the General Assembly has clearly ruled, in a legal opinion dated 16 October 1975, that "the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of General Assembly resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory".

4. Furthermore, on 29 January 2002, at the request by the Security Council, the UN Legal Counsel clearly established that Morocco was not the administering power of the territory, that the Madrid Agreement of 1975 dividing the territory between Morocco and Mauritania did not transfer any sovereignty to its signatories and, finally, that the status of Western Sahara, as Non-Self-Governing Territory, had not been affected by this agreement.

II. The solution of the conflict passes by the holding of a referendum on self-determination:

5. The question of Western Sahara having been identified by the International Community as a decolonisation question, the efforts aiming to settle it have consequently and naturally been guided by the objective of offering the people of this territory the opportunity to decide their future through a free and fair referendum on self-determination.

6. The Settlement Plan approved by the two parties to the conflict, the Kingdom of Morocco and the Frente POLISARIO, and by the Security Council in its resolutions 658 (1990) and 690 (1991), complemented by the Houston Agreements

negotiated and signed in September 1997 by the Kingdom of Morocco and the Frente POLISARIO, under the auspices of James Baker III, Personal Envoy of the UN Secretary-General, and endorsed by the Security Council as well as the Peace Plan for Self-determination for the People of Western Sahara or Baker Plan approved by the Security Council in its resolution 1495 (2003), all provide for the holding of a referendum on self-determination in Western Sahara.

All these efforts failed because of the reneging of the Kingdom of Morocco on its international commitments.

III. Readiness of the Frente POLISARIO to negotiate with a view to holding the referendum on self-determination and the granting of post-referendum guarantees to Morocco and to Moroccan residents in Western Sahara:

7. The Frente POLISARIO that unilaterally declared a cease-fire which it has ever since respected scrupulously, and that accepted and implemented in good faith the Settlement Plan by virtue of which the United Nations Mission for the Referendum in Western Sahara (MINURSO) was deployed as well as the Houston Agreements, and that has honoured all the commitments it has undertaken by making concessions sometimes painful in order to offer to the Saharawi people the opportunity to freely decide their destiny, reiterates solemnly its acceptance of Baker Plan and declares its readiness to negotiate directly with the Kingdom of Morocco, under the auspices of the United Nations, the modalities for implementing it as well as those relating to the holding of a genuine referendum on self-determination in Western Sahara in strict conformity with the spirit and letter of the UN General Assembly resolution 1514 (XV) and within the format envisaged in the framework of Baker Plan, namely the choice between independence, integration into the Kingdom of Morocco and self-governance.

8. The Frente POLISARIO is also committed to accepting the results of the referendum whatever they are and to already negotiate with the Kingdom of Morocco, under the auspices of the United Nations, the guarantees that it is prepared to grant to the Moroccan population residing in Western Sahara for 10 years as well as to the Kingdom of Morocco in the political, economic and security domains in the event that the referendum on self-determination would lead to independence.

9. The guarantees to be negotiated by the two parties would consist in:

9.1: the mutual recognition of and respect for the sovereignty, independence and territorial integrity of the two countries in accordance with the principle of the intangibility of the borders inherited from the independence period;

9.2: the granting of guarantees concerning the status and the rights and obligations of the Moroccan population in Western Sahara, including its participation in the political, economic and social life of the territory of Western Sahara. In this respect, the Saharawi State could grant the Saharawi nationality to any Moroccan citizen legally established in the territory that would apply for it;

9.3: the agreement on equitable and mutually advantageous arrangements permitting the development and the joint exploitation of the existing natural resources or those that could be discovered during a determined period of time;

9.4: the setting up of formulas of partnership and economic cooperation in different economic, commercial and financial sectors;

9.5: the renunciation by the two parties, on a reciprocal basis, of any compensation for the material destructions that have taken place since the beginning of the conflict in Western Sahara;

9.6: the conclusion of security arrangements with the Kingdom of Morocco as well as with the countries of the region that may be interested;

9.7: the commitment of the Saharawi State to work closely with the Kingdom of Morocco as well as with the other countries of the region with a view to bringing to conclusion the integration process of the Maghreb;

9.8: the readiness of the Saharawi State to participate with Morocco and the countries of the region in the maintenance of peace, stability and security of the whole region in the face of the different threats that could target it.

Likewise, the Saharawi State would positively consider any request from the United Nations and the African Union to participate in peace-keeping operations.

10. The Frente POLISARIO is ready, under the auspices of the United Nations and with the approval and the support of the Security Council, to enter in direct negotiations with the Kingdom of Morocco on the basis of the aforementioned parameters with a view to reaching a just, lasting and mutually acceptable political solution that provides for the self-determination of the people of Western Sahara in conformity with the relevant resolutions of the United Nations mainly the General Assembly resolution 1514 (XV), thus bringing about peace, stability and prosperity for the whole region of the Maghreb.